

Internal Revenue Service, Treasury

§ 403.26

laws. (Treasury Dept. Order No. 221 (June 6, 1972), 37 FR 11696; Treasury Dept. Order No. 221-3 (December 24, 1974), 40 FR 1084; Treasury Dept. Order No. 221-3 (Revision 2) (Jan. 14, 1977), 42 FR 3725.)

(Sec. 7325, 68A Stat. 870, as amended (26 U.S.C. 7325 (1), (4)); sec. 7326, 72 Stat. 1429, as amended (26 U.S.C. 7326 (a)))

[T.D. 7433, 41 FR 39312, Sept. 15, 1976, as amended by T.D. 7525, 42 FR 64344, Dec. 23, 1977]

§ 403.3 Forms prescribed.

The Commissioner of Internal Revenue or his delegate is authorized to prescribe all forms required by or necessary for the administration of this part. Information required by this part shall be furnished in accordance with the instructions issued with respect thereto.

Subpart B—Definitions

§ 403.5 Meaning of terms.

As used in this part, and unless the context otherwise requires, the following terms shall have the meanings set forth in this section. In this part words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms “includes” and “including” do not exclude things not enumerated which are in the same general class.

(a) *Appraised value*. The value placed upon seized property by the appraisers pursuant to § 403.26(a)(2) for the purpose of determining whether the property may be forfeited administratively.

(b) *Equity*. For purposes of subpart D of this part, the petitioner’s interest in the subject personal property at the time of final administrative action on the petition, but not including:

(1) Any unearned finance charges accruing from the later of the date of seizure or the date of default;

(2) any amount rebatable on account of paid insurance premiums;

(3) attorney’s fees for collection;

(4) any amount identified as dealer’s reserve; or

(5) any amount in the nature of liquidated damages that may have been

agreed upon by the buyer and the petitioner.

Subpart C—Seizures and Forfeitures

§ 403.25 Personal property subject to seizure.

Personal property may be seized by the Commissioner of Internal Revenue or his delegate for forfeiture to the United States when involved, used, or intended to be used, in violation of the internal revenue laws, other than chapters 51 (distilled spirits), 52 (tobacco) and 53 (firearms) of the I.R.C. (Sec. 7321, 68A Stat. 869; 26 U.S.C. 7321.)

(Sec. 7325, 68A Stat. 870, as amended (26 U.S.C. 7325 (1), (4)); sec. 7326, 72 Stat. 1429, as amended (26 U.S.C. 7326(a)))

[T.D. 7433, 41 FR 39312, Sept. 15, 1976, as amended by T.D. 7525, 42 FR 64344, Dec. 23, 1977]

§ 403.26 Forfeiture of seized personal property.

(a) *Administrative forfeiture*. (1) Personal property seized as subject to forfeiture under the internal revenue laws and this part which has an appraised value of \$2,500.00 or less shall be forfeited to the United States in administrative forfeiture proceedings except as otherwise provided in this section.

(2) If the Commissioner or his delegate seizes personal property which is forfeitable under the internal revenue laws and this part and which in his opinion is valued at \$2,500.00 or less, he shall cause a list containing a particular description of the seized property to be prepared in duplicate and an appraisal thereof to be made by three sworn appraisers, selected by the Commissioner or his delegate, who shall be respectable and disinterested citizens of the United States residing within the internal revenue district wherein the seizure was made. Such list and appraisal shall be properly attested by the Commissioner or his delegate and such appraisers.

(3) If such forfeitable personal property is found by the appraisers to be of the value of \$2,500.00 or less, the Commissioner or his delegate shall publish a notice once a week for three consecutive weeks, in some newspaper of the judicial district where property was

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seized, describing the articles and stating the time, place, and cause of their seizure, and requiring any person claiming them to appear and make such claim within 30 days from the date of the first publication of such notice.

(4) Any person claiming the personal property so seized, within the time specified in the notice, may file with the District Director of the internal revenue district in which the property was seized a claim, stating his interest in the articles seized, and may execute a bond to the United States in the penal sum of \$250, conditioned that, in case of condemnation of the articles so seized, the obligors shall pay all the costs and expenses of the proceedings to obtain such condemnation. The District Director shall transmit such claim, together with the duplicate list or description of the property seized, to the United States Attorney for the district in which such property was seized. Both the claim and the cost bond should be executed in quadruplicate.

(b) *Judicial condemnation.* Personal property seized as subject to forfeiture under the internal revenue laws and this part which has an appraised value of more than \$2,500 and such seized property which has an appraised value of \$2,500 or less with respect to which a bond has been filed pursuant to paragraph (a)(4) of this section, shall be forfeited to the United States in judicial condemnation proceedings, as authorized by the Director, General Legal Services Division, Office of Chief Counsel, Internal Revenue Service, or his delegate.

(Sec. 7323, 7325, 7326, 7401, 68A Stat. 869, 870, 873, 72 Stat. 1429, as amended; (26 U.S.C. 7323, 7325, 7326(a), 7401))

[T.D. 7433, 41 FR 39312, Sept. 15, 1976, as amended by T.D. 7525, 42 FR 64344, Dec. 23, 1977]

§ 403.27 Type and conditions of cost bond.

The cost bond filed by a claimant pursuant to § 403.26(a)(4) shall be a corporate surety bond. However, upon a showing to the satisfaction of the Commissioner or his delegate that such claimant is unable to furnish a corporate surety bond, such claimant may

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file a cost bond with individual sureties acceptable to the Commissioner or his delegate or, in lieu of such cost bond with corporate or individual sureties, he may deposit collateral pursuant to § 403.29.

§ 403.28 Corporate surety bonds.

A corporate surety bond may be filed only if the surety company issuing such bond holds a certificate of authority from the Secretary of the Treasury certifying that such company is an acceptable surety on Federal bonds, subject to the limitations prescribed by Treasury Department Circular 570 as amended.

(Sec. 6, 61 Stat. 648, as amended, sec. 7101, 68A Stat. 847, as amended; (6 U.S.C. 6, 26 U.S.C. 7101))

§ 403.29 Deposit of collateral.

Cash, postal money orders, certified or cashiers' or treasurers' checks, and bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited by claimants as collateral security in lieu of corporate surety bonds in accordance with the provisions of Treasury Department Circular No. 154, revised (31 CFR part 225).

(Sec. 15, 61 Stat. 650, sec. 7101, 68A Stat. 847, as amended; (6 U.S.C. 15, 26 U.S.C. 7101))

§ 403.30 Special disposition of perishable goods.

The proceedings to enforce forfeiture of perishable goods shall, as is the case with proceedings to enforce forfeiture of nonperishable goods, be in the nature of proceedings in rem in the United States District Court for the district wherein such seizure is made. When any seized property is liable to perish or become greatly reduced in price or value by keeping, or when it cannot be kept without great expense, the Commissioner or his delegate shall advise the owner, when known, of the seizure thereof. The owner of the seized property may apply to the District Director of the internal revenue district in which the property was seized to examine the property at any time prior to referral of the property to the U.S.